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Trustee in Bankruptcy
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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 In re

12 ALAN B. ROGERS dba PRECISION
FASTENING,
13

14 Debtor.

Case No. 03-57499 CN
Chapter 7

Date: October 8, 2010
Time: 10:00 a.m.
Place: 280 South First Street, San Jose
Court: Hon. Charles Novack

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16 **TRUSTEE'S REPLY TO OBJECTION TO SALE**

17 John W. Richardson, Trustee in Bankruptcy of the estate of the above Debtor, hereby
18 replies to the objection of Alan Rogers to the Trustee's proposed sale of real property adjacent to
19 Seaport Boulevard in Redwood City, California.

20 The Trustee proposed a sale to Hal Nelson or his designee for \$215,000.

21 The Debtor objected to the sale based on his recent claim of a homestead exemption of
22 \$125,000 in this commercial property (this property has never been zoned residential). He also
23 claims that a sale will not produce value for the estate. Finally, the Debtor submitted an overbid
24 of \$227,500.

25 The Debtor has claimed a homestead exemption of \$125,000 to which the Trustee has filed
26 an objection. The Trustee has invited the Debtor to provide legal authority and evidence to
27 support the exemption which may resolve the objection. Even if valid, a homestead exemption is
28 a claim of a monetary interest in the real property; it does not remove the property from the estate.

1 The property is subject to a deed of trust on which approximately \$10,000 is owed. In
2 addition, the Debtor owes property tax of \$30,000 by his own calculation. The Trustee estimates
3 costs of sale at 12 percent or \$25,800 on a \$215,000 sale.

4 After deducting the exemption (if allowed) and the expenses identified in the preceding
5 paragraph, a sale at \$215,000 would generate \$25,000 net for the estate. If the homestead
6 exemption is not valid, the sale would generate \$150,000 for the estate.

7 Under either scenario there is a benefit to the estate and the Debtor's objection on this
8 ground is not well-taken.

9 The Debtor submitted an overbid of \$227,500. The Debtor appears to suggest that he will
10 purchase the equity in the property after deducting his exemption, and leaving the deed of trust
11 and property tax arrearages undisturbed. The Trustee is not rejecting this offer and will hold an
12 auction to involve the original buyer and the Debtor. The Trustee will be prepared to report the
13 results on October 8 at the hearing on the objection. It is possible that the objection will be
14 resolved.

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16 Dated: October 4, 2010

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

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18 By: 

Charles P. Maher

Counsel for John W. Richardson, Trustee

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